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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/041,802	10/29/2001	Berthold Kramm	P-8916.00	3132
27581	7590	03/09/2005		
MEDTRONIC, INC. 710 MEDTRONIC PARKWAY NE MS-LC340 MINNEAPOLIS, MN 55432-5604			EXAMINER KENNEDY, SHARON E	
			ART UNIT 3762	PAPER NUMBER

DATE MAILED: 03/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/041,802	KRAMM ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Sharon Kennedy	3762	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 15 February 2005.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-31 is/are pending in the application.
- 4a) Of the above claim(s) 1-11, 14 and 15 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 19-31 is/are allowed.
- 6) ☒ Claim(s) 12, 13 and 16-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on February 15, 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date: _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                    | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date: _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action or the MPEP.

#### ***Election/Restrictions***

This application contains claims 1-11, 14, 15 drawn to an invention nonelected with traverse in Paper No. 7/22/2004. A complete reply to the final rejection must include cancellation of nonelected claims or other appropriate action (37 CFR 1.144) See MPEP § 821.01.

Applicant will note that the restriction requirement was made final; accordingly, the arguments must be submitted via a petition to the group director. Further, it is surprising that applicant is still arguing the matter since it is unusual to examine both the method and apparatus together. The examiner has been very generous in not restricting the application more fully.

#### ***Drawings***

The drawings were received on February 15, 2005. These drawings are approved.

#### ***Claim Rejections - 35 USC § 112***

Claims 12, 13, 16, 17, 18 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application

was filed, had possession of the claimed invention. See the comments set forth in the previous office action and the comments below.

***Claim Rejections - 35 USC § 102***

Claims 12, 13, 16, 17 and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by Machold et al., US 5,611,775. See the comments set forth in the previous office action and the comments below.

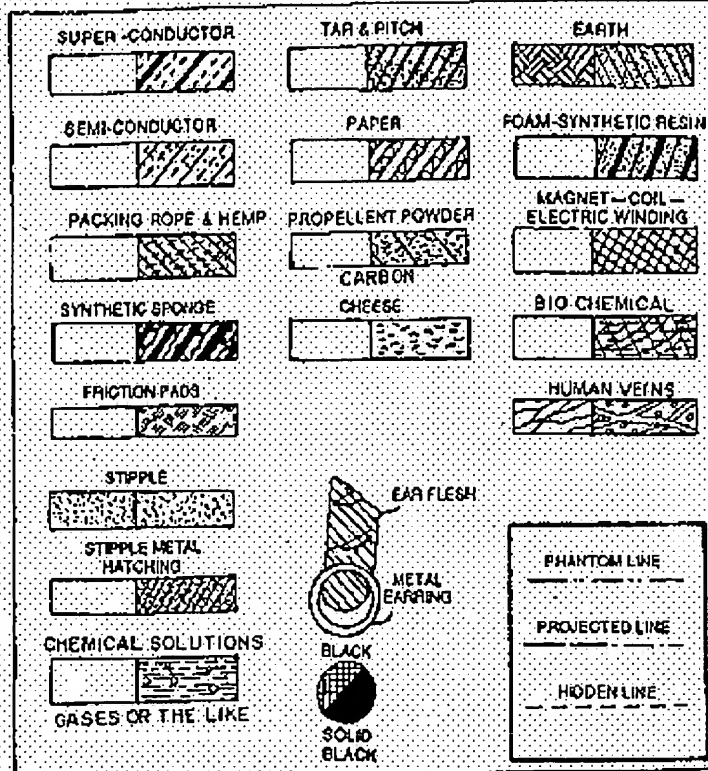
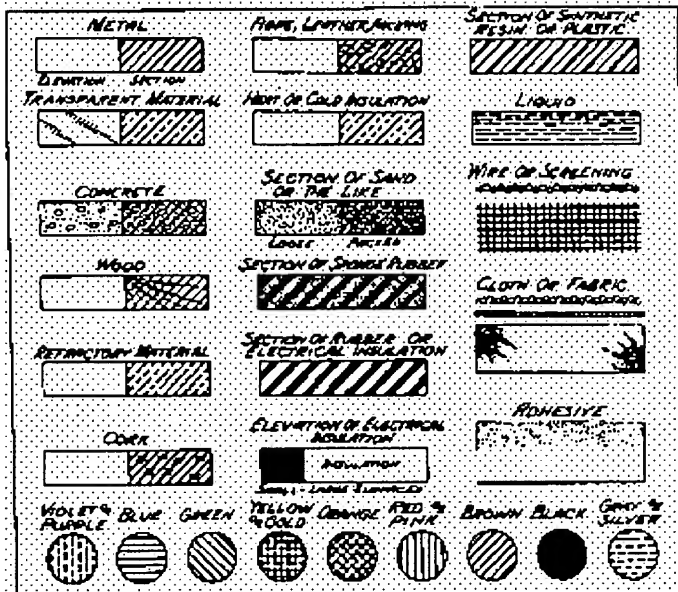
***Allowable Subject Matter***

Claims 19-31 are allowed.

***Response to Arguments***

Applicant's arguments filed February 15, 2005 have been fully considered but they are not persuasive. Regarding the rejection under 35 USC 112, first paragraph, nothing in the disclosure suggests that the distributor of these figures is a sponge. The sponge is shown in the later figures. Perhaps if the surface of the distributor contained the correct shading (see below) applicant's comments would be more convincing. The shading supplied is actually the shading properly used for a metal device. See the first shading sample. Regarding the rejection under Machold, applicant states that Machold is not capable of dispersing a vasodilating agent. This comment is confusing since clearly Machold shows dispensing pores in the balloon. Applicant's other comments are also confusing. The specification is not read into claim language. If the claims are so broad that they encompass multiple possibilities, then the prior art anticipates the claim. This is a fundamental principal of claim examination.

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***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

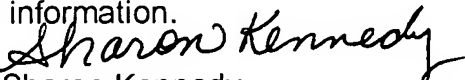
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

***Contact Information***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sharon Kennedy whose telephone number is 571/272-4948. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Angela Sykes can be reached on 571/272-4955.

Information regarding the status of an application may be obtained by going to [www.uspto.gov](http://www.uspto.gov), clicking on "Status & IFW", entering the application number, and then clicking on one of the tabs to retrieve the appropriate information.

  
Sharon Kennedy  
Primary Examiner  
Art Unit 3762